

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

REMIT CORPORATION	:	CIVIL ACTION
	:	
v.	:	
	:	
BRIAN WATKINS	:	No. 05-04190-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

November 1, 2006

Plaintiff alleges that the defendant owes \$3,926.75 for unpaid medical bills. Plaintiff sought to collect that sum by bringing an action before a district justice in Bucks County, Pennsylvania, and obtained an award in an amount far less than had been claimed. Plaintiff thereupon appealed that decision to the Court of Common Pleas of Bucks County, seeking to recover the full amount of its claim. While that action was pending, the defendant filed a counterclaim against plaintiff, alleging violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 *et seq.* Plaintiff thereupon, as the counterclaim defendant, removed the entire action to this court, and has now filed a motion for summary judgment.

It apparently escaped the attention of counsel for both sides that this court does not have subject-matter jurisdiction over this action. The claim asserted by plaintiff in its state-court complaint was not within the subject-matter jurisdiction of a federal court. While the defendant's counterclaim did present

a federal question, a federal counterclaim is not a sufficient basis for the assertion of federal-question jurisdiction. Holmes Group v. Vornado Air Circulation Sys., Inc., 535 U.S. 826 (2002); Bracken v. Matgouranis, 296 F.3d 160 (3d Cir. 2002).

The lack of subject-matter jurisdiction is a defect which cannot be waived, and which this court must notice. Accordingly, this case will be remanded to the Court of Common Pleas of Bucks County.

An Order follows.

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ORDER

AND NOW, this 1st day of November 2006, IT IS ORDERED:

That, since this court lacks jurisdiction of the subject matter of the action, this action is REMANDED to the Court of Common Pleas of Bucks County, Pennsylvania, from whence it was improvidently removed.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.